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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,518	01/11/2002	Kenneth R. Spencer SR.	00-1303	8268

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EXAMINER

GRILES, BETHANY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/11/2002

3

Please find below and/or attached an Office communication concerning this application or proceeding.

91

**Office Action Summary**

Application No.

10/043,518

Applicant(s)

SPENCER ET AL.

Examiner

Bethany L. Griles

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Aragona (US 5,540,010).

Regarding claim 1, Aragona discloses a fishing pole (fig 1) having a rod portion and a handle portion 40; a plurality of eyelets (fig 1) mounted on the rod portion,; and a vibrating assembly 16 mountable to the fishing pole.

Regarding claim 2, Aragona discloses that the second end of the fishing pole has a channel 42.

Regarding claim 3, Aragona discloses that the handle portion 40 is mounted on the second end of the rod portion (fig 1) with an open end 42 extending into the interior of the handle portion.

Regarding claim 15, Aragona discloses a vibrating means 16 mounted within a housing and the housing removably couplable to the rod portion 40 (col 6, lines 8-10).

Regarding claim 16, Aragona discloses that the power supply selectively provides power to the vibrating means (col 6, line 23), and that the power supply is mounted on the housing (col 5, lines 24-26).

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Regarding claim 17, Aragona discloses a plurality of mounting positions (col 5, lines 65-67).

Regarding claim 18, Aragona discloses a switch 44 for selectively controlling power from the power supply to the vibrating means 18 when the switch is actuated by a user (col 6, lines 23-28).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aragona in view of Yasui (USD325,421).

Regarding claim 4, Aragona discloses a rod with a handle 40.

Aragona does not disclose a protruding member.

Yasui discloses a protruding member (figs 2 and 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Yasui to the invention of Aragona in order to create a rod which was easy for a fisherman to hold and handle.

Regarding claim 5, Aragona discloses a rod with a handle 40.

Aragona does not disclose a protruding member which tapers.

Yasui discloses a protruding member which tapers (figs 2 and 3).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Yasui to the invention of Aragona in order to create a rod which was easy for a fisherman to hold and handle.

Regarding claim 6, Aragona discloses a rod with a handle 40 and a hollow portion 42.

Aragona does not disclose a cap having an inner surface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a cap on the end of the opening, in order to prevent moisture or other undesirable elements from entering the cavity, while allowing the user to access the unit for service or repair.

Regarding claim 7, Aragona discloses a rod with a handle 40 and a hollow portion 42.

Aragona does not disclose a threadably coupled cap.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a threadable attachment between the cap and the opening. It is notoriously well known in many disciplines, including this one, to threadably attach a cap to an opening.

Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aragona in view of Yankaitis (US 3,789,534).

Regarding claims 8 and 13, Aragona discloses a motor 18 positioned in a channel 16 with a cam 32.

Aragona does not disclose that the vibrating assembly is mounted in the interior of the handle.

Yankaitis discloses that the motor 32 is mounted to the rod.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Yankaitis to the invention of Aragona in order to make the unit lighter and more compact.

Regarding claim 9, Aragona discloses that the cam 32 travels in an eccentric circle which causes the first end of the rod to vibrate (fig 1).

Regarding claims 10 and 14, Aragona discloses a power supply 26 mounted on the interior 16.

Regarding claim 11, Aragona discloses a biasing assembly 44.

Regarding claim 12, Aragona discloses that the unit can be turned on (col 6, lines 10-12). Aragona does not disclose a switch, however it is obvious that a switch would have to be present in order to turn the power on.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aragona in view of Daniels (US 5,195,267).

Aragona discloses a rod (fig 1).

Aragona does not disclose that the rod is made of graphite.

Daniels discloses that rods are used in the production of fishing poles (col 1, lines 38-44).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the rod of graphite, as it is well known in the art to manufacture rods of graphite because of its strength and flexibility.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aragona in view of Yasui in view of Yankaitis in view of Daniles.

Aragona discloses a fishing pole (fig 1) having a rod portion and a handle portion 40; a plurality of eyelets (fig 1) mounted on the rod portion,; and a vibrating assembly 16 mountable to the fishing pole. Aragona discloses that the second end of the fishing pole has a channel 42. Aragona discloses that the handle portion 40 is mounted on the second end of the rod portion (fig 1) with an open end 42 extending into the interior of the handle portion. Aragona discloses a vibrating means 16 mounted within a housing and the housing removably couplable to the rod portion 40 (col 6, lines 8-10). Aragona discloses that the power supply selectively provides power to the vibrating means (col 6, line 23), and that the power supply is mounted on the housing (col 5, lines 24-26). Aragona discloses a plurality of mounting positions (col 5, lines 65-67). Aragona discloses a switch 44 for selectively controlling power from the power supply to the vibrating means 18 when the switch is actuated by a user (col 6, lines 23-28).

Aragona does not disclose a protruding member.

Yasui discloses a protruding member (figs 2 and 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Yasui to the invention of Aragona in order to create a rod which was easy for a fisherman to hold and handle.

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Aragona does not disclose a protruding member which tapers.

Yasui discloses a protruding member which tapers (figs 2 and 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Yasui to the invention of Aragona in order to create a rod which was easy for a fisherman to hold and handle.

Aragona does not disclose a cap having an inner surface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a cap on the end of the opening, in order to prevent moisture or other undesirable elements from entering the cavity, while allowing the user to access the unit for service or repair.

Aragona does not disclose that the vibrating assembly is mounted in the interior of the handle.

Yankaitis discloses that the motor 32 is mounted to the rod.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Yankaitis to the invention of Aragona in order to make the unit lighter and more compact.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lagasse US3839810; Henry US6282830; McGonigal, Jr. US6401380; Endo et al. D256839 ; Onishi et al. D346197 ; Culross GB2241140A.

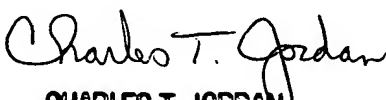


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703.306.4196 for regular communications and 703.305.3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.

  
CHARLES T. JORDAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Bethany L. Griles  
Examiner  
Art Unit 3643

blg  
July 3, 2002